IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT:

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

-

WRIT PETITION No.12883 OF 1993

Between:

N. Kirishnaiah, S/o. N.Sattaiah,

aged 36 years, presently working as

Junior Assisant in Nrupatunga Junior College,
Lingampalli, Hyderabad. **..... PETITIONER**

AND

1. The District Educational Officer,
   Hyderabad.
2. The Secretary, Correspondent,
   Karnataka Sikshana Samithi,

Baglingampalli, Hyderbad. **.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue, order or direction preferably in the nature of *Certiorari* and after calling for the records pertaining to the impugned order,
Rc. No.21153/D1, dated 22.07.1993, passed by the
1st respondent and quash the same as illegal, arbitrary and wholly without jurisdiction and unconstitutional and consequently declare that the petitioner is entitled to be included in the aided post of Junior Assistant and consequently direct the 1st respondent to ratify the action of the management of Nrupatunga High School through Lr.No.44/89-90, dated 18-01-1990 (Resolution dated 05-11-1989) for absorption the petitioner in the aided post of Junior Assistant.

Counsel for the Petitioner: Dr. K. Lakshmi Narasimha

Counsel for Respondent No.1: G.P. for School Education
Counsel for Respondent No.2: Mr. Bhagwan Rao Potdar

The Court made the following :

ORDER:

This writ petition has been filed challenging the order of the 1st respondent – District Educational Officer, Hyderabad, dated 22-07-1993, whereby the appeal preferred by the petitioner for his absorption in the aided L.D.C. post in Nrupatunga High School, was rejected.

The impugned proceedings dated 22-07-1993 to the extent necessary, is extracted as under:

> " (1) That he was appointed as attender/record asst. w.e.f. 23-7-1977 in the pay scales of Rs.165-250 in Nrupatunga Jr. College in
> un-aided post and not in Nrupatunga High School.
>
> (2) He was promoted by the Management to the post of L.D.C./Jr. Asst. in the un-aided category in the scale of Rs.425-850
> w.e.f. 1-7-80 in the Jr. College, provision only.
>
> (3) Sri P. Raghunandan, who was appointed as Record Asst. in Nrupatunga High School, since 13-6-77 in aided post was promoted during the year 1990 by the Management as such he was no claim during 1980 also there was no appeal filed by Sri N. Krishnaiah, at that time and he has not represented till 1989 when
> Sri Jayathertha Desai, R.A. absorbed appointed in grant-in-aid post w.e.f. 1-10-1979.
>
> (4) He is enjoying L.D.C./Jr. Asst. scales w.e.f. 1-7-1980 in the unaided post without asking for Record Asst. in Grant-in-aid post carried by Sri Jayathertha Desai, till the year 1989. Hence belated and needs no consideration in the matter after a long

span of (9) years and more. Moreover grant-in-aid employees only have to be considered for promotion from the feeder category.

And also the proposals submitted by the Management of Nrupatunga High School/ Junior College, Baghlingampally, Hyderabad, through Lr.No.44/89-90, dt. 18-1-90 (resolution dated 5-11-1989) for ratification of absorption of Sri N. Krishnaiah, Jr. Asst. Nrupatunga Jr. college, Baghlingampally, Hyderabad with a view to provide relief to the petitioner is not feasible of compliance on the above grounds.

Moreover the correspondent in his
Lr. No.21/93-94 dated 20-7-1993 has stated that the earlier proposals proposing the name of the petitioner from absorption is cancelled.

In view of the circumstances explained above, the appeal of Sri N. Krishnaiah is hereby rejected.

Dr. K. Lakshmi Narasimha, learned counsel for the petitioner, refers to each of the grounds extracted supra and contends that the order passed by the 1st respondent reveals non-application of mind and as such is liable to be set aside.

Learned Government Pleader for School Education relies on the executive instructions issued in G.O. Ms. No.647, dated 18-06-1977, the statutory rules in G.O. Ms. No.60, dated 28-01-1986, the rules notified in G.O. Ms. No.524, dated 20-12-1988 and to the provisions of the Andhra Pradesh Private Educational Institutions Grant in Aid (Regulation) Act 1988, in support of his submission that the petitioner is not entitled to be absorbed in the aided post of L.D.C. in Nrupatunga High School.

The impugned order of the 1st respondent, dated
22-07-1993, does not reflect any of the contentions now urged before me by the learned Government Pleader for School Education. Since the grounds of

rejection in the impugned order, dated 22-07-1993, does not refer to any statutory rule/executive instructions governing the subject, which are now relied upon by the learned Government Pleader, and since the order *ex facie* reveals non-application of mind, the impugned order is hereby set aside.

Since the appeal preferred by the petitioner is of the year 1992, I deem it appropriate to permit the petitioner to submit a fresh representation in addition to the appeal already filed by him, within two weeks from the date of receipt of a copy of this order, and to direct the respondents to consider the appeal preferred by the petitioner in the year 1992 and the representation to be submitted by him and pass appropriate orders thereon, in accordance law, within three months from the date of receipt of such representation, and communicate his decision to the petitioner within two weeks thereafter.

With the above observations and directions, the Writ Petition is disposed of. No order as to costs.

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RAMESH RANGANATHAN, J

Date:08-07-2005.

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To

1. The District Educational Officer, Hyderabad.

2. The Secretary,
   Karnataka Sikshana Samithi, Baglingampalli,
   Hyderbad.

3. Two C.Cs. to G.P. for School Education,

High Court of A.P., Hyderabad (O.U.T.).

4. Two C.D. copies